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May 3, 2012

***Via Electronic Mail at Kerr.Michelle@epamail.epa.gov  
and U.S. Mail***

Michelle Kerr, Remedial Project Manager  
U.S. Environmental Protection Agency- Region 5  
Superfund Division  
77 W. Jackson Blvd., SR-6J  
Chicago, IL 60604

**Re: Ball Pipe and Supply Incorporated Response to USEPA Information Request  
Chemetco Superfund Site, Hartford, Madison County, Illinois**

Dear Ms. Kerr:

As you know, we represent Ball Pipe and Supply Incorporated in the above-referenced matter. Included with the General Notice Letter that was sent to the company's registered agent was an information request as authorized by Section 104(e)(2) of CERCLA. Pursuant to your email communications subsequent to the issuance of the General Notice Letter, all recipients of the information request were granted a blanket extension of the original response deadline to and including May 4, 2012.

Enclosed with this letter are Ball Pipe and Supply Incorporated's responses to that information request certified by Bill Staggs, President of the company.

If you should have any questions regarding our client's responses to the information request, please feel free to contact the undersigned.

Very truly yours,

FOULSTON SIEFKIN LLP



Charles P. Efflandt

CPE/cwp

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cc: Harriet Muzljakovich

Encl.

**Ball Pipe and Supply Incorporated Response to Information Request**

**Chemetco Superfund Site**

1. *Provide the following information about your company ("Respondent"):*

**Response:**

- (a) *The complete and correct legal name of your company.*

Ball Pipe and Supply Incorporated

- (b) *The name(s) and address(es) of the President and the Chairman of the Board, or other presiding officer of the company.*

Bill Staggs, 41021 Hardesty Road, Shawnee, Oklahoma 74801

- (c) *The state of incorporation of the company and the company's agents for service.*

Oklahoma

Roger A. Stong, Crowe & Dunlevy, 20 North Broadway, Suite 1800, Oklahoma City, Oklahoma 73102

- (d) *The name(s) of all subsidiaries, affiliates, or parent companies to your company.*

Parent: The Yaffe Companies Incorporated, P.O. Box 916, Muskogee, Oklahoma 74402

- (e) *The state of incorporation and agents for service of process in the state of incorporation.*

State of incorporation of Respondent's parent: Oklahoma

Agent for service of process for parent: Roger A. Stong, Crowe & Dunlevy, 20 North Broadway, Suite 1800, Oklahoma City, OK 73102

- (f) *The status of all subsidiaries, affiliates, or parent companies to your company.*

Sub S Corporation

2. *Describe and provide any documents related to your company's business activities which resulted in sending material to Chemetco.*

**Response:**

Ball Pipe and Supply Incorporated (hereinafter referred to as "BPS") currently has no records documenting any of its historic business transactions with Chemetco. As discussed in more detail in response to Question No. 25 below, all records of such transactions were previously destroyed in accordance with Respondent's document retention policy. Based primarily on information obtained from current employees of BPS and its parent company (hereafter referred to as "Yaffe"), the following is a general description of BPS's business activities with Chemetco:

Generally, BPS sold "copper bearing" scrap metal to Chemetco for recycling. The business relationship between BPS and Chemetco lasted several years. The exact period of time is unknown. The BPS employee responsible for sales during the relevant time retired on June 1, 2001 and passed away on January 21, 2009. BPS has no written records of transactions prior to January 1, 2005.

The "copper bearing" scrap metal sold by BPS was generated by a company in Oklahoma City that manufactured and rebuilt automobile starters and alternators. The types of scrap metal sold to Chemetco for recycling consisted of armatures, stators, commutators and coils. BPS may also have sold #2 copper to Chemetco in limited quantities.

Because BPS has no records of any sales of scrap metal to Chemetco, it is not currently known whether and to what extent the scrap metal sold to Chemetco was sent to a Chemetco warehouse or directly to the Chemetco processing facility. This scrap metal was likely shipped in open top drums, although it may have for a period of time been shipped loose in van trailers operated by Yaffe Trucking, a subsidiary of The Yaffe Companies. Yaffe Trucking ceased doing business in 1999 or 2000.

3. *Describe and provide any documents related to your company's role at the Site, including what duties/involvement your company had at the Site.*



**Response:**

There are no documents that relate to BPS's role at the site. BPS had no "role" or "duties" at the Chemetco Site. BPS sold scrap metal to Chemetco for recycling.

4. *If the nature or size of Respondent's activities in relation to Chemetco changed over time, describe those changes and the dates they occurred.*

**Response:**

BPS has no records of specific transactions with Chemetco or any other information concerning the nature or size of transactions with Chemetco over time. The employee who would have been the primary contact with Chemetco retired on June 1, 2001 and passed away on January 21, 2009. The employee who assumed those responsibilities in June 2001 has no current recollection of the nature or size of any transactions with Chemetco or whether the nature or size of any transactions changed from June 2001 until Chemetco shut down and filed for bankruptcy in October 2001.

5. *For each type of waste or material used in Respondent's operations, describe and provide documents relating to Respondent's contracts, agreements, or other arrangements for its disposal, treatment, trading, or recycling with Chemetco, including but not limited to whether Respondent controlled where waste sent to Chemetco warehouses was ultimately processed/recycled.*

**Response:**

Generally, see response to Question #2 above. BPS is a scrap metal processor that, for a period of time, sold certain copper bearing scrap metal to Chemetco for recycling. At no time did BPS ever send "waste" to any Chemetco facility for disposal, treatment or any other purpose. When scrap metal is sold to a consuming facility by BPS for recycling, the handling and disposition of the scrap metal and recovered metals by the consuming facility is beyond the control of BPS. Because BPS currently has no records of any sales of scrap metal to Chemetco, it is not currently known whether and to what extent scrap metal sold to Chemetco was sent to a Chemetco warehouse or directly to the Chemetco processing facility.

6. *If not already provided, specify the dates and circumstances when Respondent's waste or material was taken to the Site, and identify the companies or individuals who brought*

*Respondent's waste/material to the Site. Provide any documents which support or memorialize your response.*

**Response:**

Generally, see responses to Questions #2 and #5 above. BPS has no documentation of any specific transactions with Chemetco. BPS cannot therefore document the identities of companies or individuals who may have transported scrap metal to a Chemetco facility. BPS has no documents to support or memorialize this response.

7. *Were transactions between your company and Chemetco and specifically the Site: 1) an outright sale; 2) subject to a written or verbal "tolling" agreement between the companies; or (3) reflected the "banking" of the transacted material in a metal account at the request of your company for return or other disposition at a later date?*

**Response:**

Generally, see response to Question #2 above. To the best recollection of those individuals involved in sales of scrap metal processed by BPS, all scrap metal is sold outright to consuming facilities.

8. *Did your company have any influence over waste disposal or recycling activities at the Site? If so, how?*

**Response:**

BPS has no influence over recycling activities at any consuming facility.

9. *Was any shipment of material sent to the Site by Respondent ever refused and/or returned? If so, describe this event in detail, including its cause and outcome.*

**Response:**

Generally, see response to Question #2 above. Specifically, BPS has no documentation or other information indicating that any scrap metal sold to Chemetco for recycling was ever refused or returned by Chemetco.

10. *Describe in detail the types of material that you sent for recycling, processing, or disposal at the Site. In your response, please also give the generic name of each type of materials shipped to the Site [e.g., scrap metal (including scrap automobiles), batteries, electronics, scrap paper, scrap plastic or scrap textile, etc.]*

**Response:**

See response to Question #2 above. BPS has never sold for recycling, processing or disposal any electronics, scrap paper, scrap plastic or scrap textile. BPS has also never sold scrap automobiles outside of the state or Oklahoma. No batteries would ever have been sold to Chemetco.

- (a) *Identify whether the materials were delivered directly to the Site or were trans-shipped there from another intermediate delivery point. If applicable, describe each such delivery point.*

See response to Question #2 and Question #6 above.

- (b) *State whether any of the material was ever tested by your company and if so, whether the substances exhibited any of the characteristics of a hazardous waste identified in 35 Illinois Administrative Code 721, Subpart C or 40 C.F.R.261, Subpart C.*

BPS has no records or other information indicating that it tested scrap metal accepted at its facility, or tested scrap metal sold by it, for characteristics of hazardous waste.

- (c) *Describe what was done to materials once they were brought to the Site, including any further processing of the materials.*

BPS has no documents or any other knowledge or information concerning the specific scrap metal processing or other operations conducted at the Chemetco Site.

- (d) *Provide any additional information and all documents that you believe are related to the type, nature and characteristics of the materials you sent to the Site.*

See response to Question #2 above. To the extent BPS understands this question, it has no additional information to provide at this time.

- (e) *List the years in which your company sent materials to Chemetco and/or its broker(s) for recycling, processing, or disposal.*

Generally, see response to Question #2 above. Based on information obtained from employees of BPS and Yaffe, it appears that the scrap metal described in these responses was sold to Chemetco and delivered to a Chemetco facility for several years. Due to the retirement and subsequent death of the employee primarily responsible for the sale of all non-ferrous scrap metal from the late 1960s until June 1, 2001, BPS does not have any information about specifically when sales of scrap metal to Chemetco occurred or how much of the described scrap it sold to Chemetco.

*Questions and Requests for Documents Related to Scrap Metal*

11. *For the following questions which relate to transactions involving scrap metals, provide the requested information, and also provide copies of any documents that contain any information that is related to the response.*

**Response:**

- (a) *Did a market exist for the scrap metal listed in your response to No. 10 above? If so, describe the nature of such a market at the time of the transaction (possible uses, possible consumers, etc.) and the sources of the commercial specification grade (e.g., Institute of Scrap Metal Recycling Industries, Inc. (ISRI), Department of Defense, or wherever your company would find the grade published).*

BPS currently has no records of any specific transactions with Chemetco. Generally, BPS sells many grades of scrap metal to consuming facilities. Grades of scrap metal are typically determined by ISRI specifications, or established by the consuming facilities themselves in marketing scrap. As indicated in response to Question #2, BPS on occasion apparently sold #2 copper to Chemetco.

- (b) *What commercial specification grade did the scrap metal listed in your response to question No. 10 meet? Identify/list the commercial specification grades that each scrap metal identified in No. 9 met.*

Generally see response to 11(a) above. Based on the information currently available, BPS sold the copper content scrap metal described in response to Question #2 and #2 copper.

- (c) *At the time of the transaction(s) what was the intended disposition of the scrap metal listed in your response to question No. 10? Did this include burning as fuel, or for energy recovery, or incineration?*

BPS sold scrap metal to Chemetco for recycling. Ball Pipe and Supply has never sold scrap metal for burning as fuel or energy recovery.

- (d) *After sale, transfer, deliver, recycling, or disposal, what portion of the scrap metal listed in your response to questions No. 10 was to be made available for use as a feedstock for manufacturing of new saleable products? Explain how the portion identified in this answer was derived or calculated.*

BPS generally understood that Chemetco processed the scrap metal it purchased to produce a usable copper product. The usable product would have been suitable for use by a consumer to produce a new, saleable product. BPS had no detailed knowledge of or control over any processes used by Chemetco in its operations.

- (e) *Could the scrap metal listed in your response to question No. 10 have been used as a replacement or substitute for a virgin raw material? If so, provide details.*

As indicated in most of our responses, BPS currently has no records of any transactions with Chemetco. As we don't know with specificity what was sold, it is not possible for us to answer this question with any certainty and without speculation.

- (f) *Could any products made from the scrap metal listed in your response to question No. 10 have been used as a replacement or substitute for a product made, in whole or in part, from a virgin raw material? If so, provide details.*

See response to 11(e) above.

- (g) *Did your company melt the scrap metal listed in your response to question No. 10 before it was transported/delivered to the Site? If yes, describe the process used for melting the scrap metal.*

BPS has never had the capability to melt any type of scrap metal.

- (h) *Describe the source of or the process that produced the materials sent to the Site.*

Generally, see response to Question #2 above. Almost all of the scrap metal sold by BPS to Chemetco was generated by a company in Oklahoma City that manufactured and rebuilt automobile starters and alternators. The scrap metal acquired from this source came from reject or off spec parts and consisted of armatures, stators, commutators and coils.

12. *Did any of the scrap material sent to the Site contain other material(s) incident to or adhering to the scrap? If so, describe in detail.*

**Response:**

The primary type of scrap metal sold by BPS to Chemetco was apparently mixed metals, the most valuable of which was copper. The scrap was reject or off-spec rebuilt automotive starters and alternators.

13. *Did any of the material sent to the Site contain wire or wiring? If so, was the wire's insulation first stripped before being shipped to or accepted at the Site, after being received at the Site, or was the wire not stripped?*

**Response:**

There was no insulated wire sent to Chemetco by BPS. Although the scrap metal contained copper wiring, the wiring was part of (intrinsic to) the starter or alternator armature, stator, commutator and coil material.

14. *Did the material shipped include drums or shipping containers? If so, specify the generators of the drums or shipping containers, the capacity of such drums or containers and whether such containers ever contained liquid of any sort. If so, specify the type of liquid and whether such liquids contained wastes of any kind.*

**Response:**

The scrap metal sold by BPS to Chemetco was likely shipped in 55 gallon open-top drums. The drums were clean and dry before the scrap was placed into them and the scrap/drums did not contain any liquid.

15. *Describe all efforts (i.e., Site visits) taken by your company to determine what would be done with the scrap metal identified in your response to question No. 10.*

**Response:**

BPS has no records of any such Site visits. To the extent sales to Chemetco occurred, BPS would not typically make a specific inquiry as to the particular disposition of each shipment of scrap metal sold.

16. *For the following questions which relate to transactions involving electrical and electronic equipment (e.g., transformers, capacitors, white goods, computers, monitors, cables, circuit boards, or other electrical equipment), provide the requested information, and also provide copies of any documents that contain any information that is related to the response:*

**Response:**

BPS has never accepted transformers, computer equipment, or similar electronic equipment for recycling. BPS has never sold white goods outside of the state of Oklahoma.

- (a) *List an estimated number of shipments of electrical and electronic equipment your company sent to the Site on an annual basis and list the years. In this list, include the type and quantity, volume and weight of the electrical and electronic equipment sent:*

See general response to Question #16 above.

- (a) *At the time of the transaction(s), what was the intended disposition of the electrical and electronic equipment listed in your response to question 15(a)? Did the intended disposition include burning as fuel or for energy recovery or incineration?*

See general response to Question #16 above. BPS did not sell scrap metal for the purposes of burning as fuel or for energy recovery.

17. *With respect to waste or materials sent to the Site, at the time of the transactions, specify the measures you took to determine the actual means of treatment, disposal, recycling, or other uses of the material. Provide information you had and any documents relating to the treatment, recycling and disposal practices of Chemetco at the Site. What assurances, if any, were you given by the owner/operator of the Site regarding the proper handling and ultimate disposition of the materials you sent there, as well as its compliance with applicable environmental laws? Include in your response any correspondence to and from Chemetco relating to this topic and dates the measures were taken or assurances were given.*

**Response:**

BPS at no time shipped "waste" to any Chemetco facility for disposal, treatment or any other purpose. BPS currently has no records of specific recycling transactions or other communications with Chemetco. Thus, BPS has no documents relating to the specific recycling, handling or disposal operations conducted at the Chemetco Site. Generally, however, beginning in 2000, BPS began to make inquiries into the consuming facilities it sold scrap metal to for purposes of attempting to evaluate the facilities' compliance with environmental requirements. These inquiries included reviews of public information available from regulatory agencies at the state and federal level, as well as reviews of information in trade and general interest publications. The consuming facilities themselves were contacted and asked to provide documentation that their facility operated in substantial compliance with applicable environmental regulations.

18. *What efforts and when, if any, did you take to investigate the nature of the operations conducted at the Site and the environmental compliance of the Site prior to selling, transferring, delivering disposing of, trading or arranging for the treatment, recycling, or disposal of any materials?*

**Response:**

BPS currently has no written documentation of investigations or reviews of the nature of the specific operations conducted at the Chemetco Site. However, in



2000 BPS became generally aware of environmental compliance issues at Chemetco through information provided in a news article in the American Metal Market publication of January 17, 2000. BPS contacted Chemetco management to inquire about these environmental compliance issues. Management at Chemetco provided the name and telephone number of an environmental consultant acting as the Site's environmental manager. The environmental manager for BPS called the identified environmental consultant/on-site environmental manager at Chemetco to discuss the ongoing environmental enforcement actions against Chemetco by the Illinois Environmental Protection Agency. BPS's environmental manager also inquired into the steps Chemetco was taking to comply with the requirements being imposed in connection with the enforcement actions. The environmental manager for BPS was satisfied that, although historic problems had led to the enforcement actions, Chemetco was, at the time of these contacts, in substantial compliance with enforcement orders and was on target to achieve compliance within applicable timelines. In conducting this inquiry into Chemetco's environmental compliance status, it was also very significant to BPS that, whatever the compliance issues, Illinois EPA was allowing the Chemetco facility to continue to conduct business with its suppliers and customers. BPS therefore assumed that, if the regulatory agency believed sufficient progress was being made by Chemetco toward achieving regulatory compliance to allow it to continue its operations, then there was no reason for BPS to cease doing business with Chemetco.

19. *Provide all information in your possession that shows that you were in compliance with applicable federal environmental regulations or standards regarding the recycling of materials, particularly Section 127 of CERCLA, 42 U.S.C. 9627, sent to the Chemetco Site.*

**Response:**

This appears to be a request for a legal analysis or evaluation of statutory compliance rather than a request for specific factual information. In addition, the question is so broad in scope and ambiguous that a response cannot reasonably be provided. With that objection, BPS would generally refer to and incorporate its response to Question #18 above. It was and remains the business practice of BPS to only sell scrap metal to consuming facilities that meet standard industry specifications. BPS sells scrap metal for recycling. It does not sell waste or material with no value for disposal. The only scrap metal BPS "tolled" during the

period of 2000-2001 was aluminum. This material was tolled at an Oklahoma facility.

20. *Provide all information in your possession that shows that you were in compliance with applicable federal environmental regulations or standards regarding scrap metal promulgated under Resource Conservation and Recovery Act (RCRA).*

**Response:**

This appears to be a request for a legal analysis or evaluation of regulatory compliance status rather than a request for specific factual information. In addition, it is so broad in scope and ambiguous that a response cannot reasonably be provided. With that objection, BPS generally states that it is not, and has not been, a generator of hazardous waste. BPS utilizes a State of Oklahoma-permitted Subtitle D landfill for disposal of solid waste.

21. *Provide all RCRA Identification Numbers issued to Respondent by EPA or a state for Respondent's operation.*

**Response:**

BPS does not have an EPA ID number; it has no RCRA – regulated activities.

22. *List all federal and state environmental laws and regulations under which Respondent has reported to federal or state governments, including but not limited to: Toxic Substances Control Act, 15 U.S.C. Sections 2601 et seq.; Emergency Planning and Community Right-to-Know Act, 42 U.S.C. Sections 1101 et seq., (EPCRA); and the Clean Water Act (the Water Pollution Prevention and Control Act), 33 U.S.C. Sections 1251 et seq.*

**Response:**

EPCRA and the equivalent Oklahoma State statute; Clean Water Act (storm water permitting) and the equivalent Oklahoma State statute; NPDES and the equivalent Oklahoma State statute for disposal of waste water (sewer lagoon permit); the Oklahoma Solid Waste Management Act (disposal of non-hazardous industrial waste (petroleum contaminated soil); Clean Air Act (asbestos).

23. *Identify the federal and state offices to which such information was sent. State the years during which such information was sent/filed.*

**Response:**

All records of this type are destroyed 10 years after creation. Oklahoma Department of Environmental Quality, EPCRA 2000 – present. Storm water 2000, 2005 – 2011. NPDES 1999, 2004, 2009. Solid Waste Management, 2010.

24. *If you have reason to believe that there may be persons able to provide a more detailed or complete response to any questions contained herein or who may be able to provide additional responsive documents, identify such persons and the additional documents that they may have.*

**Response:**

At the present time, we believe that the responses to this Request for Information have been prepared with input from all appropriate persons who are currently available to provide information. BPS is continuing its investigation into the matters that are the subject of this Request for Information and will supplement this and other responses as may be appropriate and required.

25. *If any of the documents solicited in this information request are no longer available, please indicate the reason why they are no longer available. For each and every questions contained herein, if information or documents responsive to this Information Request are not in your possession, custody or control, then identify the persons from whom such information or documents may be obtained. If the records were destroyed, provide us with the following:*

- (a) *The document retention policy between 1970 and 2001;*
- (b) *A description of how the records were destroyed (burned, trashed, etc.) and the approximate date of destruction;*
- (c) *A description of the type of information that would have been contained in the documents;*
- (d) *The name, job title and most current address known by you of the person(s) who would have produced these documents, the person(s) who would have been responsible for the retention of these documents; the person(s) who would have been responsible for the destruction of these documents; and the person(s) who had and/or still may have the originals or copies of the documents; and*
- (e) *The name and most current address of any person(s) who may possess documents relevant to this inquiry.*

**Response:**

The only documents referenced in this Request for Information that are possibly available at this time are some of the environmental regulatory documents prepared and maintained by the environmental manager for BPS. As a general guideline, these types of documents are only retained for 10 years. The rationale of this document retention policy is that most environmental regulations require retention of documents for a period of 5 years after a permit expires. Most permits are issued for a period of 5 years; therefore, destruction of these types of documents that more than 10 years old should achieve compliance with legal requirements.

All company records relating to business and financial transactions with consuming facilities are maintained only for the time period required by federal law; 7 years after the tax return has been filed. Therefore, all documents relating to the sale, shipping and transportation of scrap metal are destroyed 8 years after the close of business for the previous year. Documents are destroyed in March or April of each year, for the year ending 8 years before. For example, in March, 2012, all documents for the year 2004 will be destroyed.

The company's document retention policy has never been put in writing, but has not varied since 1988. The reason for the document retention policy and for destroying old records is that there is not enough room to store all such documents.

Prior to 2005, documents were destroyed by burning. Beginning in 2005 and continuing today, documents are destroyed by a commercial shredder. The commercial shredder comes in once each year and works until the documents from the selected time period are destroyed.

Sharla McAfee, Chief Financial Officer and Controller, The Yaffe Companies, Incorporated, is the person responsible for the financial and business records. Her address is P.O. Box 916, Muskogee, Oklahoma 74402. She is responsible for the maintenance and destruction of all business and financial records.

Harriet Muzljakovich, Corporate Environmental Manager, The Yaffe Companies, Incorporated, is the person responsible for environmental records for all activities from May, 1994 to present. Her address is P.O. Box 916, Muskogee, Oklahoma, 74402. She is responsible for the maintenance and destruction of all environmental records.

26. *Please state the name, title and address of each individual who assisted or was consulted in the preparation of the response to this information request.*

**Response:**

Sharla K. McAfee, Chief Financial Officer and Controller,  
The Yaffe Companies, Incorporated  
P.O. Box 916  
Muskogee, Oklahoma 74402

Harriet Muzljakovich, Corporate Environmental Manager,  
The Yaffe Companies, Incorporated  
P.O. Box 916  
Muskogee, Oklahoma 74402

Andrew Yaffe, Vice-President  
  
The Yaffe Companies, Incorporated  
  
P.O. Box 916  
Muskogee, Oklahoma 74402  
(Responsible for non-ferrous sales)

Mark Leverett, Human Resources Manager  
The Yaffe Companies, Incorporated  
P.O. Box 916  
Muskogee, Oklahoma 74402

James Pine, Assistant Manager  
Ball Pipe and Supply  
P.O. Box 1149  
Shawnee, Oklahoma 74801

Chuck Cale, Manager  
Borg Compressed Steel Corp.  
P.O. Box 50327  
Tulsa, Oklahoma 74150

## CERTIFICATION

I certify under penalty of law that this document and any and all enclosures were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

**Ball Pipe and Supply Incorporated**

By: B. Staggs

Printed Name: BILL STAGGS

Title: PRESIDENT

Date: 5/1/12